

SCPD POLICY AND LAW COMMITTEE MEETING MINUTES
AUGUST 10, 2017 – 1:00 PM
SMYRNA REST AREA - SMYRNA, DE

Members Present: Marge Turner, Co-Chair; Daniese McMullin-Powell, Co-Chair (by phone); Moni Edgar, CAP; Wendy Strauss, GACEC; Brian Hartman, DLP; Kristin Harvey, DDC; William Payne, Advocate; and John McNeal, Staff; and Dee Rivard, Support Staff.

CALL TO ORDER

Marge called the meeting to order 1:08 PM.

ADDITIONS OR DELETIONS TO THE AGENDA

Accessible Parking – Non-ADA Compliant

APPROVAL OF MINUTES

Brian made a motion to approve the May 11th minutes and Moni seconded the motion. The May 11th minutes were approved as submitted.

REVIEW OF REGULATIONS AND LEGISLATION

1. DOE Final DIAA H.S. Interscholastic Athletics Reg. [21 DE Reg. 147 (8/1/17)] – It was agreed no further action was needed by SCPD. GACEC will consult with the DIAA consistent with their recommendation of retention of the term “athletics” in §2.4.7. DOE agreed but did not change the text.
2. DMMA Medicaid Dental Fee Schedule Reg. [21 DE Reg. 124 (8/1/17)] – Brian motioned to share observations with DMMA with a copy to Lt. Governor Hall-Long and the DDDS Director. The motion was seconded and carried. Brian noted the listed options, alone or in combination, could facilitate adoption of an adult Medicaid benefit and potentially “draw down” millions of dollars in federal matching funds. Bill spoke about Medicaid cuts and asked if these monies could be used as a buffer. Brian noted that ACA repeal did not get approved, but it behooves us to make the point.
3. DMMA Prop. DPAP Elimination Reg. [21 DE Reg. 127 (8/1/17)] – Brian motioned to 1) acknowledge the legislative repeal of the DPAP enabling law justifies the regulation; 2) express concern that the ramifications of the elimination of the program (which had a \$2.5 million appropriation FY 17) are not clear; and 3) request (via FOIA or otherwise) a copy of the last three annual reports prepared pursuant to the recent repealed 16 Del.C. § 3006B. The motion was seconded and carried.
4. DFS Prop. Family & Lg. Family Child Care Homes Reg. [21 DE Reg. 134 (8/1/17)] – Brian motioned to strongly endorse the regulation and alert other agencies (e.g. Autism Delaware, UCP, NAMI-DE, Arc of Delaware, Nemours) of the opportunity to write letters of endorsement. The motion was seconded and carried.

5. DFS Prop. Early Care, Education & School-Age Center Reg. [21 DE Reg. 133 (8/1/17)] – Brian motioned to strongly endorse the regulation and alert other agencies (e.g. Autism Delaware, UCP, NAMI-DE, Arc of Delaware, Nemours) of the opportunity to write letters of endorsement. Bill seconded the motion and motion was carried.
6. DMMA Notice: DSHP Amendments [21 DE Reg. 156 (8/1/17)]
 - I. DDDS Lifespan Waiver Interaction with DSHP – Brian motioned sharing reservations with DMMA, with a courtesy copy shared with Autism Delaware, the Arc of Delaware, UCP, BIAD, the DDDS Director, and the Advisory Council to the Division of Developmental Disabilities Services. The motion was seconded and carried. There was discussion about people falling through the cracks and one of the DSHP MCOs refusing to cover services at Delaware’s only pediatric hospital specializing in minors with disabilities.
 - II. Medicaid Coverage of Former Out-of-State Foster Care Youth – Brian motioned that the Council issue confirming commentary on the implementing State Plan amendment since they previously endorsed this initiative. The motion was seconded and carried. Bill asked about those who are “aged out” of the system in a different state. Brian commented that many states are doing this.
7. DMMA Notice: MHPAEA (Mental Health Parity and Addiction Equity Act) Compliance [21 DE Reg. 158 (8/1/17)] – Brian motioned to share reservations concerning the Report with DHSS, with a courtesy copy shared with the DPBHS, DDDS, DSAM, Autism Delaware, NAMI-DE, the Mental Health Association, BIAD, and veterans’ organizations. Motion was seconded and carried. Marge spoke about the MCOs not using the assessment specifically for people with brain injuries (an initiative of the Brain Injury Committee (BIC)). Brian clarified that the State determines eligibility and can still use it. The assessment was turned over to the MCOs to use if they felt it was needed. Brian stated that there is an MCO on BIC and we can get clarification. Marge made a motion to amend to add that we have serious reservations about the Report, including examples provided. Also share with federal congressional representatives. The motion was seconded and carried.

OTHER BUSINESS

Accessible Parking – Non-ADA Compliant

Bill spoke about accessible parking issues on State property, including here, which is still non-ADA compliant. He mentioned the charging stations which have no parking for accessible vehicles at the Smyrna Rest Area. He spoke about the bus stop (7 ft. instead of 8 ft.). State locations for meetings usually have only one van accessible parking spot (ADA requirement). He noted that sometimes we have three people attending meetings that are in accessible vans at State locations. More van accessible parking spots are needed.

John stated that the issues need to be addressed in different ways because of different ownership

and provided several examples. He spoke about a business place, in addition to being a meeting place. Brian spoke about ADA contemplating for enhanced standards for places like hospitals. He added that legislation could be drafted for places like Smyrna Rest Area that they would match the ADA enhanced standards of a health care facility. He added that there would be an additional fiscal note, but would be highly disfavored in the current fiscal climate.

John stated that he gave a presentation to the Governor and Cabinet members on where Delaware is and where it needs to go in regard to ADA compliance. The Governor gave a directive at the meeting for all agencies to provide a contact person for meetings to discuss bringing their Departments up to ADA compliance. He added that this will have a tremendous fiscal note, but it is long overdue. John stated that some of the issues we are discussing today can be built into this. He added that an architect and an engineer that understand ADA is needed to succeed.

Brian offered another alternative approach, stating that the Architectural Accessibility Board (AAB) reviews plans for any new State buildings or a place that receive State funding. The AAB enabling legislation could be changed that they could be authorized to make recommendations which exceed the ADA standards. A weaker approach would be to say that agencies consider these enhanced ADA standards. A stronger approach would say that the agencies will defer to the AAB's recommendations unless there is an undue burden.

John commented that the AAB is currently only seeing 20 percent of the plans. Brian commented that is an enforcement issue. He added that the statute was enacted in 1980 and has not been changed since then. This conceptually could be Part I of a multi-step practice to expand the viability of the AAB. Bill asked how we can support John in continuing to accomplish these goals. John stated that the SCPD needs to be included in these discussion. There needs to be a Director of SCPD and a State Director of ADA Compliance. There is a staffing issue and looking at the importance of ADA compliance.

ANNOUNCEMENTS

None

ADJOURNMENT

The meeting was adjourned at 2:45 pm. Agenda items for next meeting:

- Availability of Accessible Spots at Charging Stations.
- Four year requirement for renewal of ID verses eight year requirement for Driver's License will be on the agenda for next month (which may be extended to 16 years). John will check with the Division of Motor Vehicle on the requirements.

Respectfully submitted,

Jo Singles
Support Staff